

FILED - LN

May 27, 2008 10:29 AM

RONALD C. WESTON, SR., CLERK  
U.S. DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
BY: 885-26-08<sup>5</sup>

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

ROBERT NICKLAY  
Plaintiff

Robert J. Jonker  
U.S. District Judge

MOTION TO  
AMEND  
COMPLAINT

VS

JUDGE C.E. OSTERITANEN

DEFENDANT

1:08-cv-474

Now comes the Plaintiff asking this Honorable Court to AMEND His original complaint filed ON 5-22-08. SAID AMENDMENT IS Allowed By Rule 15, "Pleadings AND MOTIONS" of the Federal Rules of Civil procedure.

Amended complaint should READ AS Follows:

FEDERAL COMPLAINT

Judge OSTERITANEN DID ACT OUTSIDE His JUDICIAL capacity when HE threatened MR. NICKLAY IN open court with INCARCERATION IF MR. NICKLAY ~~was~~<sup>were</sup> to exercise His ABSOLUTE Right to pursue ANY AVAILABLE REMEDY AS A VICTIM of CRIME. SAID threat IS NOT ONLY NOT JUDICIAL IN NATURE But ALSO IN clear ABSENCE of ALL JURISDICTION. See *Pickson v Ray*, 386 U.S. 547 (1967); *ALKIRE v IRVING*, 305 F.3d 450, 469 (6th Circuit 2002); *MIRELE v*

WACO, 502 US 9, 11, 12 (1991).

In determining whether certain conduct is Judicial in Nature, the court must adopt a Functional Approach, asking whether the Act is one normally performed by a Judge. STUMP V SPARKMAN, 435 U.S. 349, 362 (1978); BARNES V WINCHELL, 105 F.3d 1111, 1116 (6<sup>th</sup> Cir. 1997)

Plaintiff is reasonably sure the Hon. Defendant's Judicial immunity is overcome by both sets of circumstances the Supreme Court has been clear on. MIRELES V WACO 502 US 9, 11, 12.

Plaintiff has been forced to withdraw from state case 07-3422-SC under duress pursuant to Judge Osterlunds threats. ~~Plaintiff is reasonably sure~~

### RELIEF REQUESTED

That this Honorable Court grant this motion and amend the complaint as requested. Plus Punitive damages in the amount of \$250,000.

Respectfully Submitted,  
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UCCI-103 UCCI-207

*[Signature]*

ESTO DIGNUS